APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/066,176	02/01/2002	Richard E. Rowe	IGT1P048/P-537	2727

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EXAMINER
DURAN, ARTHUR D

ART UNIT	PAPER NUMBER
3622	

MAIL DATE	DELIVERY MODE
01/27/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/066,176	ROWE ET AL.
	Examiner	**Art Unit**	
	Arthur Duran	3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10 November 2008*.
2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-28* is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) *1-28* is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All   b)☐ Some * c)☐ None of:
      1.☐ Certified copies of the priority documents have been received.
      2.☐ Certified copies of the priority documents have been received in Application No. _____.
      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.
4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

DETAILED ACTION

Claims 1-28 have been examined.

Response to Amendment

The Amendment filed on is 11/10/08 is insufficient to overcome the prior

rejection.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in

37 CFR 1.17(e), was filed in this application after final rejection. Since this application is

eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e)

has been timely paid, the finality of the previous Office action has been withdrawn pursuant to

37 CFR 1.114. Applicant's submission filed on 11/10/2008 has been entered.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of
> making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the
> art to which it pertains, or with which it is most nearly connected, to make and use the same and shall
> set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-28 rejected under 35 U.S.C. 112, first paragraph, as failing to comply

with the enablement requirement. The claim(s) contains subject matter which was not

described in the specification in such a way as to enable one skilled in the art to which it

pertains, or with which it is most nearly connected, to make and/or use the invention.

The claim amendment dated 11/10/2008 added the claim features, "wherein one

of the individuals of the further subset plays a number of games by betting a total

amount lower than any of the individuals of the first subset that are excluded from the further subset".

And, the Applicant in Remarks on 11/10/2008 stated that targeting the low patronage users is novel over the cited prior art. However, Applicant's Specification discloses targeting the higher patronage users for promotions (page 19, lines 1-8; page 5, lines 1-18). Hence, Applicant has added specifically targeting low patronage users for more promotions and stated that this targeting of low patronage users is novel. However, Applicant's Specification does not explicitly support targeting on these attributes in this manner.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

1. **Claims 1-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dandurand ("Market Niche Analysis In the Casino Gaming Industry", Journal of Gambling Studies, Vol. 6(1), Spring 1990) in view of Sheppard (US 6,026,397).**

2. Regarding claims 1, 18, 21, 24, and 27, Dandurand teaches of analyzing casino customers and segmenting them into groups and sub-groups. (Page 78). Dandurand gives an example where by customers are first grouped based on their "Slot Gaming

Budget." (Page 82, Table 1). Then, players with a budget greater than $500 are further

sub-divided based on other attributes. (Page 83, Table 2). After a target player is

identified, offers and benefits are conferred to those who fall within that segmentation.

(Page 84). Dandurand teaches that the data is taken from a database (i.e. queried).

(Page 81).

Regarding claim 1, 14-15, 18, 21, 24, and 27, Dandurand does not explicitly

teach that this method is accomplished using a computer, however, Dandurand teaches

of Management Information Systems (MIS) functions of the enterprise. (Page 84). MIS

is a computer system designed to help managers plan and direct business and

organizational operations. (Dictionary.com).

3.   Regarding claims 14-15, 18, 21 and 24, Dandurand does not explicitly teach that

this method is accomplished using a computer, however, Dandurand teaches of

Management Information Systems (MIS) functions of the enterprise. (Page 84). MIS is

a computer system designed to help managers plan and direct business and

organizational operations. (Dictionary.com). An automatic means to replace a manual

activity which accomplished the same result is not sufficient to distinguish over the prior

art. *In re Venner*, 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958). Additionally,

applicant teaches that it is already common for data to be collected and searched in

"database queries". (Specification, Page 2). *See* MPEP § 2144.04.

4.   Alternatively, Sheppard teaches of a method for using a computer to segment

databases into groups and sub-groups. (Abstract).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have used a computer to automate the data analysis that Dandurand teaches. One would have been motivated to do so in order to save time and to take advantage of the computing power of a computer.

Additionally, Dandurand teaches of analyzing database information in order to segment various customers in a casino. (Page 81). The database contains information relating to the customers preferences and gaming behavior. (Page 81-82). Based on the customer's preferences (as well as other variables), customers are segmented into groups and sub-groups. (Fig. 1; Page 78). These groups and sub-groups allow for the determination of target market customers and the creation of targeted marketing programs. (Pages 80-81). Dandurand gives an example of this iterative segmentation in use. First customers are segmented based on their "slot gaming budget." (Table 1; Pages 81-82). Thereafter, customers are further segmented based on various other factors, such as gender, age, race, etc. (Table 2; Pages 83-84). After a target player is identified, offers and benefits are conferred to those who fall within that segmentation. (Page 84). Therefore, Dandurand gives an example of an iterative method of obtaining customer data from a database, segmenting customers based on various variables, and providing offers and benefits to those customers that are identified.

Additionally, Dandurand discloses a variety of attributes that can be analyzed for targeting (page 83 table 2) and that particular attributes (zip code) can be further analyzed and that different clusters can be arrived at and that filtering can be performed based on combination of additional variables.

Dandurand does not explicitly disclose that single variables are analyzed for different cluster determining.

However, Sheppard discloses that numerous clusters for targeting can be determined (Figures 9a, 9b) and that cluster refinement can be performed in an iterative process with further cluster analysis and filtering (Figure 8) and that different variables can be analyzed at different levels of refinement and association with similar or dissimilar neighboring clusters (Figure 9b). And, Sheppard discloses that clusters can be analyzed and assessed based on anywhere from a single variable to all variables or anywhere between (Figures 12, 13). Notice in Figure 12 that a cluster can be defined for 4 of the 97 possible parameters. And, notice in Figure 12 that anywhere from 1 to 97 of the possible variables can be utilized for targeting, cluster analysis, and cluster determining. Hence, Sheppard discloses advanced cluster, group, and subgroup determining for targeting purposes. And, notice that Sheppard discloses that the cluster analysis can be iterative and continual to find numerous possible target groups and subgroups.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Sheppard's further targeting variable analysis to Dandurand's targeting variable analysis. One would have been motivated to do this in order to better determine target groups and better target users.

Also, Sheppard discloses that different promotions may be presented to the different target groups (col 2, lines 21-20; col 2, lines 44-52).

Additionally, Dandurand does not explicitly disclose a player tracking system from which user attributes can be received.

However, the combination of the prior art renders obvious a player tracking system from which user attributes can be received.

Applicant's Specification states that a player tracking system is obvious, old, and well known:

"The management and analysis of data has long been important to many industries. As such many methodologies have been developed over the years that are oriented towards utilizing the relational aspects of collected data and data presentation for a variety of applications. The gaming industry is among those industries where the analysis of collected data is extremely important to optimizing marketing campaigns that directly affect the company's bottom line. Within the gaming industry data are collected as players play games on the casino floor. These data are commonly referred to as player tracking information. This player tracking information is combined together with fundamental player related data elements such as city/state, age, income, etc., to form player data relationships. Using these player data relationships, casinos can combine the data collected from tracking the game play of specific players and target those players with specific marketing campaigns organized in an attempt to increase revenue for the casino" ("Background of the Invention", pages 1-2).

And, Dandurand discloses four obvious methods for collecting data to profile the user, "The Observation Approach", "The Probing Approach", "The Deductive Approach", "the A Priori Approach". (Dandurand, page 79, Figure 2) and that "the purpose of this

deductive approach, or any of the other approaches (such as observation, probing, or priori), is to produce a basis for identifying a unique set of preferences for one or more consumers in the target market." Dandurand further states that the observation approach is "market analysts can observe behavior of the target market customers. They will be searching for any differences that might be related to unique target market customers and to unique preferences" (page 78-79).

And, Dandurand's disclosure is oriented towards gaming and casinos, "Market Niche Analysis In the Casino Gaming Industry".

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made that Dandurand can use the obvious, old, and well known user information gathering or player tracking system of the Applicant's Background to collect data for use with Dandurand's observation and deduction methods for determining target niches.

And, it would have been obvious to one having ordinary skill in the art at the time of the invention to combine the features since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable. Or, it is obvious because it is a use of a known technique to improve similar methods in the same way. Or, it is obvious to try, choosing from a finite number of identified, predictable solutions, with a reasonable expectation of success is obvious to try.

Hence, the combination of the prior art renders these features of the Applicant's claims obvious.

Additionally, on 11/10/2008, Applicant added these features to the independent claims:

"wherein one of the individuals of the further subset plays a number of games by betting a total amount lower than any of the individuals of the first subset that are excluded from the further subset".

And, please see the rejection of the independent claims above or, particularly, the Response to Arguments dated 8/8/08. These sections show how the prior art discloses targeting based on single relational polymorphisms and also based on clusters, groups, subgroups, niches, microniches, and also anywhere from one to any combination of 97 different targeting variables.

And, in regards to the new features of targeting a group of lower budget players, Dandurand anticipates these features. Dandurand discloses identifying a Slot Gaming Budget and placing players into groups of lower or higher budget players such as Economy, Moderate, and Premium budget players (page 82, Table 1, "Slot Gaming Budget", "Economy", "Moderate", "Premium"). Dandurand further discloses how player Gaming Budget can be tracked (page 83, Table 2, "Gaming Budget"). And, Dandurand discloses that each marketing niche can receive an appropriate marketing program approach for that particular niche:

"The purpose of marketing plans and a marketing planning system is to produce a viable marketing strategy. A marketing strategist is concerned with selecting feasible

target markets and developing efficient marketing programs for the selected target

market mix. Market niche analysis is a concept and a marketing tool that can improve

the development of marketing strategy.

Market niche analysis is a creative process. It can be used to identify new target

markets, to improve existing target markets, and to enhance marketing policy. It can be

incorporated into the research and MIS (Management Information System) functions of

the enterprise." (Dandurand, page 84).

Hence, Dandurand discloses that lower budget players can be targeted. And, in

Dandurand, the lower budget players would be marketed to in a different way than the

premium budget players would be marketed to.

Also, teaching of a preference does not constitute a teaching away from the

proposed combination under review. See In re Fulton, 391 F.3d 1195, 1199-1200, 73

USPQ2d 1141, 1146 (Fed. Cir. 2004). And, while Dandurand discloses targeting

premium players, that does not prevent Dandurand from also targeting other market

niches. And, Dandurand discloses tracking Economy, Moderate, and Premium budget

players. And, Dandurand discloses a marketing approach for each different niche.

Hence, Dandurand discloses that lower budget players can be targeted. And, in

Dandurand, the lower budget players would be marketed to in a different way than the

premium budget players would b marketed to.

Alternatively, the combination of the prior art renders obvious these features.

Dandurand does not explicitly disclose targeting lower budget players. However, it has

been shown that the combination of the prior art can target any combination of target

variables (see preceding). And, player budget is one of the listed variables in

Dandurand (page 82, Table 1, "Slot Gaming Budget", "Economy", "Moderate",

"Premium"; also, page 83, Table 2). Also, Applicant has stated in the Remarks dated

11/10/2008 how Durand discloses targeting higher budget players or premium players.

Also, the MPEP 2144.04.IV.A. states that a change in size/proportion is obvious.

Hence, since the prior art targets based on high budget players, it is obvious that

Durand can also target based on lower budget players. Also, Dandurand discloses that

the marketing strategist should have an efficient marketing approach for each different

marketing niche (bottom of page 84). Hence, it is obvious that Dandurand can target

premium players and also target budget players. Dandurand can have one marketing

approach for premium players and a different marketing approach for budget players.

One would be motivated do this in order to have an efficient marketing approach for

each different marketing niche (Dandurand, page 84).

Hence, the prior art discloses or renders obvious the features of the Applicant's

claims.

5.   Regarding claim 2, in the example given by Dandurand, the customers are sorted

based on their "slot gaming budget." Those who have a budget greater than $500 are

placed in the group "premium" which is then further segmented.

6.   Regarding claim 3, applicant teaches that the "query" attribute that is used to

create the "first subset" is part of the "selected attributes." The query attribute in claim 2

is used to create a "first subset" whereby all individuals in this group have at least the

"query attribute." However, applicant states in claim 1 that the "selected attributes" are

compared in order to determine a "difference" between individuals. It is unclear to the examiner how it would be possible to have a query attribute that is used to find similar individuals also be in the group of attributes that is used to find "difference[s]" between individuals.

7.   Regarding claim 4, Dandurand's first sorts the data based on "Slot Gaming Budget." (Page 82). Dandurand then compares the individuals in a specific category based on other attributes, none being "Slot Gaming Budget." (Page 83).

8.   Regarding claim 5, applicant teaches of defining a "gaming DNA". Applicant teaches that a "gaming DNA" for an individual is "any subset of the attributes stored in the system's player tracking database." (Specification, Page 14). Dandurand teaches creating user profiles with selected variables. (Page 82)

9.   Regarding claims 6-8, applicant teaches that the attributes of the "gaming DNA" can be equal to, more than or less than the "selected attributes." Applicant teaches that the DNA may "vary from analysis to analysis." (Specification, Page 14). The DNA may be "redefined each time the player tracking database is mined." (Id.). Dandurand does not explicitly teach every possibility, however, Dandurand teaches that the profile is composed of selected variables. (Page 82) Dandurand further teaches that the profile could be expanded into a "richer profile" with more variables or could be reduced to focus on a niche. (Page 83, 84).

        Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have created the user profile with any number of user attributes.

One would have been motivated to do so in order to expand or reduce the "niche" market.

10.   Regarding claim 9, Dandurand teaches of a target market strategy on the segmented groups. (Page 74).

11.   Regarding claim 10, applicant teaches that the marketing strategy comprises "identifying at least one single relational polymorphism" between the subsets. Applicant teaches that a "single relational polymorphism" is an attribute which is different for a subset of individuals. (Specification, Page 17). Dandurand teaches of a similar method whereby the marketing strategy is focused on specific sub-groups, or "niche markets." (Page 83). These "sub-groups" share the same parent group; in this case, budgets greater than $500.

12.   Regarding claim 11 and 13, Dandurand teaches of similar attributes. (Page 83, Table 2).

13.   Regarding claim 12, and 17, Dandurand teaches a similar method of using "Las Vegas Visitor Profile" as the database that consists of players gambling in Las Vegas. (Page 82).

14.   Regarding claim 16, 17, 19, 20, 22, 23, 25, and 26, Dandurand teaches of similar tracking data, such as average bet at electronic slots. (Page 83).

        Claim 28: See claim 1. Also, Applicant's Specification says that it is old and well known that, " Within the gaming industry data are collected as players play games on the casino floor. These data are commonly referred to as player tracking information." (page 1, 2). And, Sheppard discloses a network and collecting data and presenting

data to a server/database for analysis (Fig. 1) and throughout the Sheppard

Specification. Hence, it is obvious that casino game play data from specific games can

be connected to a central database/server. Please see the motivation from claim 1.

Response to Arguments

15.   Applicant's arguments filed 11/10/2008 have been fully considered but are not

found persuasive.

On page 10 of the Applicant's Remarks dated 11/10/2008, Applicant states:

"neither Dandurand or Sheppard, considered alone or in combination, describe

or suggest 'wherein one of the individuals of the further subset plays a number of

games by betting a total amount lower than any of the individuals of the first subset that

are excluded from the further subset'".

And, Examiner notes that these are new features that were added to the

independent claims on 11/10/2008.

And, please see the rejection of the independent claims dated 8/8/08 and

particularly the Response to Arguments dated 8/8/08. These sections show how the

prior art discloses targeting based on single relational polymorphisms and also based

on clusters, groups, subgroups, niches, microniches, and also anywhere from one to

any combination of 97 different targeting variables.

And, in regards to the new features of targeting a group of lower budget players,

Dandurand also discloses these features. Dandurand discloses identifying a Slot

Gaming Budget and placing players into groups of lower or higher budget players such

as Economy, Moderate, and Premium budget players (page 82, Table 1, "Slot Gaming

Budget", "Economy", "Moderate", "Premium"). Dandurand further discloses how player

Gaming Budget can be tracked (page 83, Table 2, "Gaming Budget"). And, Dandurand

discloses that each marketing niche can receive an appropriate marketing program

approach for that particular niche:

"The purpose of marketing plans and a marketing planning system is to produce

a viable marketing strategy. A marketing strategist is concerned with selecting feasible

target markets and developing efficient marketing programs for the selected target

market mix. Market niche analysis is a concept and a marketing tool that can improve

the development of marketing strategy.

Market niche analysis is a creative process. It can be used to identify new target

markets, to improve existing target markets, and to enhance marketing policy. It can be

incorporated into the research and MIS (Management Information System) functions of

the enterprise." (Dandurand, page 84).

Hence, Dandurand discloses that lower budget players can be targeted. And, in

Dandurand, the lower budget players would be marketed to in a different way than the

premium budget players would be marketed to.

Also, teaching of a preference does not constitute a teaching away from the

proposed combination under review. See In re Fulton, 391 F.3d 1195, 1199-1200, 73

USPQ2d 1141, 1146 (Fed. Cir. 2004). And, while Dandurand discloses targeting

premium players, that does not prevent Dandurand from also targeting other market

niches. And, Dandurand discloses tracking Economy, Moderate, and Premium budget

players. And, Dandurand discloses a marketing approach for each different niche.

Hence, Dandurand discloses that lower budget players can be targeted. And, in Dandurand, the lower budget players would be marketed to in a different way than the premium budget players would b marketed to.

Alternatively, the combination of the prior art renders obvious these features. Dandurand does not explicitly disclose targeting lower budget players. However, it has been shown that the combination of the prior art can target any combination of target variables (see preceding). And, player budget is one of the listed variables in Dandurand (page 82, Table 1, "Slot Gaming Budget", "Economy", "Moderate", "Premium"; also, page 83, Table 2). Also, Applicant has stated in the Remarks dated 11/10/2008 how Durand discloses targeting higher budget players or premium players. Also, the MPEP 2144.04.IV.A. states that a change in size/proportion is obvious. Hence, since the prior art targets based on high budget players, it is obvious that Durand can also target based on lower budget players. Also, Dandurand discloses that the marketing strategist should have an efficient marketing approach for each different marketing niche (bottom of page 84). Hence, it is obvious that Dandurand can target premium players and also target budget players. Dandurand can have one marketing approach for premium players and a different marketing approach for budget players. One would be motivated do this in order to have an efficient marketing approach for each different marketing niche (Dandurand, page 84).

Hence, the prior art discloses or renders obvious the features of the Applicant's claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arthur Duran whose telephone number is (571)272-6718. The examiner can normally be reached on Mon- Fri, 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Arthur Duran
Primary Examiner
Art Unit 3622

/Arthur Duran/
Primary Examiner, Art Unit 3622
1/12/2009